

Bureau of Indian Affairs, Interior

§ 166.4

AUTHORITY: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; Sec. 6, 96 Stat. 986, 25 U.S.C. 466. Interpret or apply R.S. 2078, 25 U.S.C. 68; R.S. 2117, 25 U.S.C. 179; Sec. 3, 26 Stat. 795, 25 U.S.C. 397; Sec. 1, 28 Stat. 305, 25 U.S.C. 402; Sec. 4, 36 Stat. 856, 25 U.S.C. 403; Sec. 1, 39 Stat. 128, 25 U.S.C. 394; Sec. 1, 41 Stat. 1232, 25 U.S.C. 393; Sec. 16, 17, 48 Stat. 987, 988, 25 U.S.C. 476, 477; Sec. 1, 2, 4, 5, 6, 69 Stat. 539, 540, 25 U.S.C. 415, 415a, 415b, 415c, 415d, 25 U.S.C. 3701, 3702, 3703, 3711, 3712, 3713, 3714, 3731, 3732, 3733, 3734, 3741, 3742, 3743, 3744, 3745, 107 Stat. 2011; 44 U.S.C. § 3101, *et seq.*)

SOURCE: 66 FR 7126, Jan. 22, 2001, unless otherwise noted.

Subpart A—Purpose, Scope, and Definitions

§ 166.1 What is the purpose and scope of this part?

(a) The purpose of this part is to describe the authorities, policies, and procedures the BIA uses to approve, grant, and administer a permit for grazing on tribal land, individually-owned Indian land, or government land.

(b) If the BIA's approval is not required for a permit, these regulations will not apply.

(c) These regulations do not apply to any tribal land which is permitted under a corporate charter issued by us pursuant to 25 U.S.C. § 477, or under a special act of Congress authorizing permits without our approval under certain conditions, except to the extent that the authorizing statutes require us to enforce such permits on behalf of the Indian landowners.

(d) To the extent that any provisions of this part conflict with Section 213 of the Indian Land Consolidation Act Amendments of 2000, the provisions of that act will govern.

(e) In approving a permit on behalf of the Indian landowners, the BIA will not permit for fee interest owners nor will we collect rent on behalf of fee interest owners. Our permitting of the trust and restricted interests of the Indian landowners will not be conditioned on a permit having been obtained from any fee interest owners. However, where all of the trust or restricted interests in a tract are subject to a life estate held in fee status, we will approve a permit of the remainder interests of the Indian landowners only

if such action is necessary to preserve the value of the land or protect the interests of the Indian landowners. Where a life estate and remainder interest are both owned in trust or restricted status, the life estate and remainder interest must both be permitted under these regulations, unless the permit is for less than one year in duration. Unless otherwise provided by the document creating the life estate or by agreement, rent payable under the permit must be paid to the holder of the life estate under part 179 of this title.

§ 166.2 Can the BIA waive the application of these regulations?

Yes. In any case in which these regulations conflict with the objectives of the agricultural resource management plan provided for in § 166.311 of this part, or with a tribal law, the BIA may waive the application of such regulations unless the waiver would constitute a violation of a federal statute or judicial decision or would conflict with the BIA's general trust responsibility under federal law.

§ 166.3 May decisions under this part be appealed?

Yes. Except where otherwise provided in this part, appeals from decisions by the BIA under this part may be taken pursuant to 25 CFR part 2.

§ 166.4 What terms do I need to know?

Adult means an individual Indian who is 18 years of age or older.

Agency means the agency or field office or any other designated office in the Bureau of Indian Affairs (BIA) having jurisdiction over trust or restricted property or money.

Agricultural product means:

(1) Crops grown under cultivated conditions whether used for personal consumption, subsistence, or sold for commercial benefit;

(2) Domestic livestock, including cattle, sheep, goats, horses, buffalo, swine, reindeer, fowl, or other animals specifically raised and used for food or fiber or as a beast of burden;

(3) Forage, hay, fodder, food grains, crop residues and other items grown or harvested for the feeding and care of